

De minimis changes: Businesses, trade groups weigh in

Customs and Border Protection proposals to increase data requirements and limit the exemption's use drew a mixed response from commenters.

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A worker bring boxes of flowers into a warehouse before inspection by customs agents. Proposed changes to the de minimis exemption has drawn both praise and concern from various groups. Joe Raedle via Getty Images

Businesses and industry groups are split on what the de minimis exemption's future should look like.

The trade tool allowing sub-\$800 products to enter the U.S. duty free is poised to end for products from China, Canada and Mexico as part of tariff measures imposed by the Trump administration. Further de minimis restrictions will come if two recently proposed rule changes from U.S. Customs and Border Protection are implemented as planned.

One of the proposals calls for strengthening data collection requirements for low-cost goods entering the U.S. The other would nix de minimis treatment for products covered by Section 201, 232 and 301 tariffs.

Several companies, trade groups and small business owners weighed in on the proposals during a public comment period. Some supported the measures' potential to curb the flow of illegal drugs and help domestic industries, while others expressed concern over potential added costs and delays.

Here's a deeper look at what commenters said about the planned de minimis shifts ahead of their implementation.

National Customs Brokers and Forwarders Association of America

The National Customs Brokers and Forwarders Association of America warned that most of the CBP's proposals won't achieve the visibility and compliance necessary to stop fentanyl and other illicit items from entering the U.S.

The group critiqued CBP's plans to establish six different variations of the cargo entry and release process, saying it would create an inconsistent system that hinders compliance, security and safety. Instead, it suggested a uniform process requiring a complete entry data set and bonded importer of record for all merchandise.

"Rather than the six differing clearance channels, we propose consistency and transparency throughout the entire entry/release process, including de minimis through unified requirements and standards," the NCBFAA said.

The group also denounced the CBP's proposal allowing certain exceptions on requirements for importers to submit Harmonized Tariff Schedule classification numbers for de minimis-eligible goods. The rule could create "cumbersome and costly administrative and judicial proceedings" from companies pushing for an exception, the NCBFAA said.

The NCBFAA further noted that CBP should only grant the de minimis exemption to U.S. purchasers or owners, as currently there's confusion surrounding which party in the importing process possesses the exemption.

"This largely is due to CBP rulings finding that parties such as warehouses, distribution centers, carriers, logistics companies as well as foreign vendors can serve as such party. This only creates a de minimis environment rife with compliance, national security, and safety risks," the group said.

National Foreign Trade Council

Cutting the de minimis exemption for goods subject to Section 301

tariffs, a move targeting China imports in particular, would reduce American consumers' purchasing power while straining customs enforcement capacity, the National Foreign Trade Council said.

“Supply chains that utilize the de minimis exemption are shorter, so increases in government charges and transaction fees would be felt more directly by businesses and consumers, compared to higher value shipments with longer supply chains that have more parties to share the added costs,” said the group, which focuses on trade and tax policies.

The de minimis exemption currently helps government agencies efficiently process the large number of low-value shipments entering the U.S., per the NFTC. Additional staffing needed to collect and process increased tariff revenue runs the risk of creating supply chain bottlenecks at ports for de minimis shipments and other cargo types, it added.

More regulation around the exemption also would likely shift many individual shipments into the international postal system, “where a documented lack of actionable information has stymied meaningful enforcement action,” the council said.



An Amazon airplane flying. The Aerospace Industries Association, whose membership includes Amazon, said U.S. Customs and Border Protection should consider updating systems and adding resources to gear up for changing de minimis rules.

Courtesy of Amazon

Aerospace Industries Association

Members of the Aerospace Industries Association support CBP efforts to reform the de minimis exemption and shield U.S. businesses from unfair trade practices, said Dak Hardwick, the trade group's VP of international affairs.

However, AIA members also want to ensure changes to the import entry process are both streamlined and clear, Hardwick added. Requiring 10-digit Harmonized Tariff Schedule codes for low-cost goods, as outlined in the CBP's proposal for a new entry process, could spur "enforcement challenges," he said.

"Should this requirement go into effect, CBP must update its entry process system to allow for verification by the importer," Hardwick said. "Additionally, CBP must ensure it has the resources available to review a substantial increase in shipments while still maintaining a robust trade environment."

Since not every country has the same Harmonized Tariff Schedule system, the U.S. must also create a process for foreign shippers to easily adjust to any new entry process, Hardwick added.

Partnership for Safe Medicines

The Partnership for Safe Medicines, a public health coalition focused on prescription drug safety, is largely in support of CBP's plans.

New information requirements for de minimis shipments are a step in the right direction to stymie the flow of counterfeit drugs into the U.S., according to Shabbir Safdar, executive director of the organization. However, the group said more data points are needed to help assess risk.

"We recommend that CBP require verifiable transactional data from sellers and platforms to prevent manipulated shipment values," Safdar said. "We also recommend that [Advanced Electronic Data] requirements should expand product descriptions to include detailed SKU, brand, and classification verification."

Safdar added that CBP could implement AI-driven technologies and audits to expedite the screening process and detect counterfeits more easily despite more stringent information requirements. The agency could also use a real-time data exchange with partner government agencies for better tracking, per Safdar.

Decker Technology Group

Decker Technology Group called for CBP to provide an exemption to the changes for small U.S.-based businesses. The technology manufacturing firm makes products in the U.S. but sources parts it can only procure in China.

“One ‘bug’ or small change, and all the inventory would have to be thrown out.”

Decker Technology Group

Commenting on the risk of ordering parts in bulk quantities

Through the de minimis exemption, the company can import parts as needed without committing to bulk quantities in case design alternations need to be made.

“One ‘bug’ or small change, and all the inventory would have to be thrown out,” the company said.

If Decker Technology Group has to use non-de minimis entry methods, the smaller shipments it leans on would become more expensive, the company said. As an example, a \$500 parts shipment it currently imports could face \$238 in added fees.

“That is a 47.5% increase and that likely does not represent all the charges,” Decker Technology Group said. “And with the increased load on the already overworked CBP staff, there will be significant delays. Our company cannot survive these added costs and delays.”

N9ne Furniture Group

N9ne Furniture Group, an office furniture wholesaler, said it can’t

compete with manufacturers in China that utilize the de minimis exemption to sell directly to U.S. customers.

The company supported CBP's plans for additional data requirements on low-cost imports, adding that lowering the \$800 exemption amount while enforcing stricter data collection could help wholesalers regain business.

"Strengthening rules around low value imports would bring us closer to closing this loophole that has substantially impeded American furniture wholesalers and retailers," N9ne Furniture Group said.

Kora's Corner

CBP's proposed changes could have a disproportionately large impact on areas reliant on cross-border trade, said Neil King, owner of Kora's Corner, a gift shop in Point Roberts, Washington.

Many businesses in the community south of Vancouver rely on shoppers from Canada, and King worries the CBP's plans could increase costs and administrative burdens related to serving these customers. King pointed out that additional information requirements on low-value shipments could strain their operations.

"The requirement for 10-digit Harmonized Tariff Schedule codes on low-value shipments creates logistical and financial challenges for small businesses like mine, which lack the resources of large corporations to manage these complexities," King said.

The CBP should consider tailored exceptions for communities like Point Roberts and provisions to ease compliance challenges for small businesses, according to King.